

In re Patent Application of:
PURVIS ET AL.
Serial No. 10/613,510
Filed: JULY 3, 2003

REMARKS

The Examiner is thanked for the thorough examination of the present application. Independent Claims 1, 12, 15 and 35 have each been amended to positively recite in the body of the claim a pitched roof including a plurality of pitched roof members, as previously recited in the preamble of independent Claim 1, for example. No new issues are presented by the current amendments.

I. Claims 1-18 and 35-45 Are Patentable

The Examiner rejected independent Claims 1, 12, 15 and 35, contending they merely include an intended-use recitation, such as an end post support first segment for removably fastening to an end of a respective pitched roof member. The Examiner correctly appreciated that the Lewis patent discloses an end post support attached to a building wall rather than to a pitched roof member.

Although the Applicants disagree with the Examiner's position regarding an intended use, in the interests of advancing prosecution, independent Claims 1, 12, 15 and 35 have been amended to positively recite a pitched roof including a plurality of pitched roof members, and further recite an end post support including a first segment removably fastened to an end of a respective pitched roof member, as in amended independent Claim 1, for example. Accordingly, amended independent Claims 1, 12, 15 and 35 include this clear patentable distinction over the Lewis patent.

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The Examiner further rejected independent Claim 15 over the McLaughlin et al. patent, contending a horizontal plate 122 is a gable post body having a first end "F" for removably fastening to a pitched roof member along the gable portion of a pitched roof, as recited in independent Claim 15. Instead, the horizontal plate 122 of McLaughlin et al. prevents twisting of clamp members for vertical floor surfaces. Moreover, amended independent Claim 15 positively recites a gable post body having a first end removably fastened to a pitched roof member of a pitched roof along a gable portion thereof. Neither the horizontal plate 122 of McLaughlin et al., nor any component thereof, is removably fastened to a pitched roof member along the gable portion of a pitched roof, as recited in amended independent Claim 15. Further, there is no proper suggestion or teaching to combine the McLaughlin et al. patent with the Lewis patent, and, even if there was such a suggestion, the combination of McLaughlin et al. and Lewis would still fail to produce the invention of Claim 15. Accordingly, amended independent Claim 15 is patentable.

Applicants submit that amended independent Claims 1, 12, 15 and 35 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

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II. Claims 19-34 and 46-51 Are Patentable

The Examiner rejected independent Claims 19 and 46 over the Lewis patent. The Examiner correctly noted that the Lewis patent fails to disclose the steps of installing a guardrail system, including post support structures and gable support structures to pitched roof members. The Examiner contended that connecting a plurality of end post supports to ends of pitched roof members would have been obvious in view of Lewis.

Amended independent Claims 19 and 46 positively recite that the end post support body has a first segment removably fastened to the end of the respective pitched roof member. The Lewis patent teaches away from such by disclosing a fall arrest device attached to an upper portion of a wall as described at column 4, lines 19-29 and as illustrated in FIGS. 2 and 3. Further, the bracket of the fall arrestor device in the Lewis patent engages the cap or top plate extending horizontally along the upper edge of the wall, as described at column 4, lines 29-38. There is simply no proper suggestion or teaching in the prior art to modify the Lewis patent to connect the fall arrest device to the end of pitched roof members.

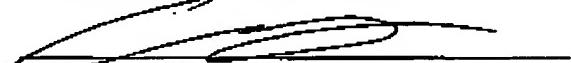
Accordingly, amended independent Claims 19 and 46 are patentable over Lewis. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

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CONCLUSIONS

In view of the amendments to the claims and the arguments presented above, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned at the telephone number listed below.

Respectfully submitted,


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CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via facsimile number 571-273-8300 to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 11th day of May, 2006.

